

1 ROBERT J. YORIO (SBN 93178)
yorio@carrferrell.com
2 V. RANDALL GARD (SBN 151677)
rgard@carrferrell.com
3 CHRISTOPHER P. GREWE (SBN 245938)
cgrewe@carrferrell.com
4 CARR & FERRELL LLP
2200 Geng Road
5 Palo Alto, California 94303
Telephone: (650) 812-3400
6 Facsimile: (650) 812-3444
7 Attorneys for Plaintiff and Counter-Defendant
MARK L. MCHUGH
8
9 *(additional attorneys listed on signature page)*

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 MARK L. MCHUGH, an individual,
15 Plaintiff,
16
17 v.
18 HILLERICH & BRADSBY CO., a private
company,
19 Defendant.

CASE NO. C 07-03677 JSW

**JOINT CLAIM CONSTRUCTION AND
PRE-HEARING STATEMENT**

(PATENT LOCAL RULE 4-3)

20 AND RELATED COUNTERCLAIMS.
21

22
23 Pursuant to Patent Local Rule ("Patent L.R.") 4-3, Plaintiff/Counter-Defendant Defendant
24 Mark L. McHugh ("Plaintiff" or "McHugh") and Defendant/Counterclaimant Hillerich & Bradsby
25 Company ("Defendant" or "H&B"), by and through their respective counsel, jointly submit this
26 Joint Claim Construction and Pre-Hearing Statement regarding the August 26, 2008 Claim
27 Construction Hearing regarding U.S. Patent No. 5,806,091 (the "'091 Patent"). Plaintiff and
28 Defendant are collectively referred to herein as the "Parties."

1 **A. Agreed Claim Constructions (Patent L.R. 4-3(a))**

2 The Parties do not submit any proposed constructions of claim terms, phrases, and/or
3 clauses on which the parties agree.

4 **B. Disputed Claim Constructions and Joint Claim Construction Chart**
5 **(Patent L.R. 4-3(b))**

6 The Parties attach hereto a joint claim construction chart for the '091 Patent that includes
7 each party's proposed construction of each disputed claim term, phrase, and/or clause, together
8 with an identification of all references from the specification or prosecution history that support
9 that construction, and an identification of any extrinsic evidence known to the party on which it
10 intends to rely either in support of its proposed construction of the claim or to oppose the other
11 party's proposed construction of the claim. *See* Exhibit A. The issue of testimony of percipient
12 and/or expert witnesses is addressed below in Section D.

13 **C. Length of Time for Claim Constructions Hearing (Patent L.R. 4-3(c))**

14 The Parties have agreed that the length of time necessary for the Claim Construction
15 Hearing is roughly 3-4 hours.

16 **D. Need for Live Testimony at Claim Constructions Hearing (Patent L.R. 4-3(d))**

17 The Parties have agreed that there is no need for live testimony at the Claim Construction
18 Hearing.

19 **E. Additional Issues that Need to Be Addressed at a Pre-Hearing Conference**
20 **(Patent L.R. 4-3(e))**

21 H&B objects to McHugh's reliance on any evidence that was not produced in compliance
22 with Local Rule 4-2 requiring the production of any extrinsic evidence not previously produced.

23 On May 13, 2008, H&B requested via email the production of the extrinsic evidence
24 identified by McHugh with his proposed constructions. On May 13, 2008, McHugh requested via
25 email a mutual exchange of extrinsic evidence not previously produced, including the extrinsic
26 evidence that H&B reserved the right to rely on to rebut McHugh's proposed and/or further support
27 its proposed construction to the extent that McHugh relies on extrinsic evidence to support his
28 proposed constructions.

1 On May 19, 2008, H&B indicated via email that (1) H&B contends that the claims should
2 be construed solely by reference to the plain language of the claims, specification, and prosecution
3 history of the '091 patent, (2) H&B would not be relying on any extrinsic evidence that was not
4 specifically identified and/or produced when required by Local Rule 4-2, and (3) H&B objects to
5 McHugh's reliance on any evidence that was not produced in compliance with Local Rule 4-2
6 requiring the production of any extrinsic evidence not previously produced.

7 On May 19, 2008, McHugh indicated via email that the production of any extrinsic
8 evidence not previously produced would occur before May 23, 2008. To date, such extrinsic
9 evidence has not been produced.

10
11 Dated: May 19, 2008

Respectfully submitted,

CARR & FERRELL LLP

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13
14 By: /s/ Christopher P. Grewe
15 ROBERT J. YORIO (SBN 93178)
ryorio@carrferrell.com
16 V. RANDALL GARD (SBN 151677)
rgard@carrferrell.com
17 CHRISTOPHER P. GREWE (SBN 245938)
cgrewe@carrferrell.com
18 CARR & FERRELL LLP
2200 Geng Road
19 Palo Alto, California 94303
Telephone: (650) 812-3400
Facsimile: (650) 812-3444

20 Attorneys for Plaintiff and Counter-Defendant
21 MARK L. MCHUGH
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1 Dated: May 19, 2008

LOEB & LOEB LLP

2
3 By: /s/ Laura A. Wytmsa

4 LAURA A. WYTSMA (SBN 103711)

lwytmsa@loeb.com

5 ULESES C. HENDERSON, JR. (SBN 225246)

uhenderson@loeb.com

LOEB & LOEB LLP

6 10100 Santa Monica Boulevard, Suite 2200

Los Angeles, Ca 90067

7 Telephone: (310) 282-2000

8 Facsimile: (310) 282-2200

9 Attorneys for Defendant and Counterclaimant

HILLERICH & BRADSBY CO.

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GENERAL ORDER 45 ATTESTATION OF SIGNATURES

I, Christopher P. Grewe, attest that the concurrence in the filing of this document has been obtained from the other signatory, which shall serve in lieu of her signature.

By: /s/ Christopher P. Grewe
CHRISTOPHER P. GREWE

Mark McHugh v. Hillerich & Bradsby, Co.

Case No.: C 07-03677 JSW

Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>member</p> <p><i>Proposed for Construction by McHugh</i></p> <p>Appears in Claims 1, 5, 12 and 13 of the '091 Patent</p> <p>elongated resilient member</p> <p><i>Proposed for Construction by H&B</i></p> <p>Appears in Claim 1 of the '091 Patent</p>	<p>"member" should be construed to mean "component"</p> <p>The entire phrase "elongated resilient member" does not require construction. To the extent that a construction is required: "long and thin elastic component".</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g., '091 Patent – Abstract; 1:45-56; 2:4-5; Figures 2A-B; 2:43-55; 2:64-3:13; 2:6-7; Figure 3; 3:14-18; 3:19-25; 3:36-51; 3:63-4:18; 2:8-9; Figure 4; 4:19-30; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4:45-63.</i></p> <p><i>See also</i> Title and Claims 1-3, 5, 7-15.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97 and 12/01/97, and accompanying remarks; Office Action of 07/31/97; and Examiner Interview Summary of 08/21/97.</p>	<p>"a long and narrow grip having a length greater than three times an average width made of plastic, rubber, or other flexible material that extends across two or more fingers"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g., '091 Patent at 1:21-26; 1:43, 1:46, 1:52-54; 2:43, 2:46, 2:57, 2:61, 2:63, 2:64-3:13; 3:14, 3:15, 3:17, 3:19, 3:23, 3:33, 3:35, 3:52, 3:53, 3:54, 3:59, 3:63-4:20, 4:29-31, 4:40, 4:51, 5:16, 5:20-21.</i></p> <p><i>See also</i> Title and Claims 1, 2, 3, 7, 12, 13, 16, and 22.</p> <p><i>See also</i> 07/17/1995 Application; Amendments of 06/12/1996, 09/26/1996, 11/14/1996, 3/25/1998, 12/01/1997, and accompanying remarks; 09/26/1997 Request for Reconsideration; Office Actions of 03/13/1996 08/14/1996 and 10/7/1997; Examiner</p>

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<u>EXTRINSIC EVIDENCE:</u> Definitions of "elongate", "resilient" and "member". <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary, Unabridged.</i> Merriam-Webster, 2002. • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		Interview Summary of 8/12/1997

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>configured to fit</p> <p><i>Proposed for Construction by H&B Only</i></p> <p>Appears in Claims 1 and 12 of the '091 Patent</p>	<p>No construction required.</p> <p>To the extent that a construction is required: "designed to fit."</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g., '091 Patent – Abstract; 1:43-56; 2:4-5; Figures 2A-B; 2:43-63; 2:64-3:13; 2:6-7; 3:14-18; 3:19-30; 3:36-51; 3:52-56; 3:63-4:18; 2:8-9; Figure 4; 4:19-30; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4:45-63; 4:64-5:2</i></p> <p><i>See also Claims 1-3, 12, and 13.</i></p> <p><i>See also 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Action of 07/31/97; and Examiner Interview Summary of 08/21/97.</i></p>	<p>"designed to fit"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g., '091 Patent at 2:43-45.</i></p>

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Definition for "configure" and "fit".</p> <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary, Unabridged.</i> Merriam-Webster, 2002. • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
base of the user's fingers <i>Proposed for Construction by H&B Only</i> Appears in Claim 1 of the '091 Patent	No construction required. To the extent that a construction is required: "over the proximal phalanx A2 pulley region of the user's fingers".	<u>INTRINSIC EVIDENCE:</u> <i>See e.g., '091 Patent – Abstract; 1:43-56; 2:1-3; Figure 1; 2:29-42; 2:4-5; Figures 2A-B; 2:43-63; 2:6-7; Figure 3; 3:14-18; 3:19-30; 3:36-51; 3:52-56; 4:8-18; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4:45-63.</i> <i>See also Claims 1, 5, 7, 12 and 13.</i> <i>See also 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Actions of 07/31/97 and 1/13/98; and Examiner Interview Summary of 08/21/97.</i>	"the location where the palm joins the fingers"	<u>INTRINSIC EVIDENCE:</u> <i>See, e.g., '091 Patent at 1:43-45.</i> <i>See also Figs. 1, 3, 5A, 5B, and 6.</i> <i>See also Claims 1, 5, 7, 12, 13 and 16.</i> <i>See also 07/17/1995 Application.</i>

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Dolye MD. Anatomy of the finger flexor tendon sheath and pulley system. J. HAND SURG. 1988; 13A:473-484.</p> <p>FRANK H. NETTER MD., ATLAS OF THE HUMAN ANATOMY (Saunders Elsevier 4th ed. 2006) (1989).</p> <p>KEITH L. MOORE, PhD, FIAC, FRSM & ANNE M.R. AGUR, BSc(OT), MSc PhD, ESSENTIAL CLINICAL ANATOMY (Lippincott Williams & Wilkins 3d ed. 2007) (1995).</p> <p>Definition of "at" and "base".</p> <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary,</i> 		

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><i>Unabridged.</i> Merriam-Webster, 2002.</p> <ul style="list-style-type: none"> • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>in a gap</p> <p><i>Proposed for Construction by McHugh</i></p> <p>Appears in Claim 1 of the '091 Patent</p> <p>in a gap between a palm of the user's hand and the base of the user's fingers</p> <p><i>Proposed for Construction by H&B</i></p> <p>Appears in Claim 1 of the '091 Patent</p>	<p>"in the proximal digital crease of the user's hand"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See e.g.</i>, '091 Patent – Abstract; 1:43-56; 2:1-3; Figure 1; 2:29-42; 2:4-5; Figures 2A-B; 2:43-63; 2:6-7; Figure 3; 3:14-18; 3:19-30; 3:36-51; 4:8-4:18; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4:45-63.</p> <p><i>See also</i> Claims 1-6, 12 and 13.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Actions of 07/31/97 and 1/13/98; and Examiner Interview Summaries of 7/31/97, 08/21/97, 09/03/97 and</p>	<p>"filling the space or void above the palm of the hand and below the base of the fingers to prevent the superficial transverse metacarpal ligament, associated tissue, and skin of the palm extending over the base of the fingers when a handle is grasped"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g.</i>, '091 Patent at 1:43-52; 2:30-45; 3:15-26; 3:47-49; 4:49-53.</p> <p><i>See also</i> Figs. 1, 3, 5A, 5B, and 6.</p> <p><i>See also</i> 07/17/1995 Application; Amendments of 04/21/1997, 05/28/1997, and 12/01/1997, and accompanying remarks; and Examiner Interview Summary of 03/20/1997 and proposed claim language referenced therein.</p>

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p>12/01/97.</p> <p><u>EXTRINSIC EVIDENCE:</u> Dolye MD. Anatomy of the finger flexor tendon sheath and pulley system. J. HAND SURG. 1988; 13A:473-484.</p> <p>FRANK H. NETTER MD., ATLAS OF THE HUMAN ANATOMY (Saunders Elsevier 4th ed. 2006) (1989).</p> <p>KEITH L. MOORE, PhD, FIAC, FRSM & ANNE M.R. AGUR, BSc(OT), MSc PhD, ESSENTIAL CLINICAL ANATOMY (Lipponcott Williams & Wilkins 3d ed. 2007) (1995).</p> <p>Definition of "in" and "gap".</p> <ul style="list-style-type: none"> • <i>Webster's Third New International</i> 		

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><i>Dictionary, Unabridged.</i> Merriam-Webster, 2002.</p> <ul style="list-style-type: none"> • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		

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EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>retainer</p> <p><i>Proposed for Construction by McHugh</i></p> <p>Appears in Claim 1 of the '091 Patent</p> <p>a retainer connected to the member</p> <p><i>Proposed for Construction by H&B</i></p> <p>Appears in Claim 1 of the '091 Patent</p>	<p>"retainer" should be construed to mean "hand grip element for positioning and retaining the member".</p> <p>The entire phrase "a retainer connected to the member" does not require construction.</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See e.g., '091 Patent – Abstract; 1:54-56; 1:59-62; 2:4-5; Figures 2A-B; 2:55-63; 2:6-7; Figure 3; 3:52-56; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7, 4: 64-5:2.</i></p> <p><i>See also</i> Claims 1-6, 12 and 13.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Action of 1/13/98; and Examiner Interview Summaries of 09/03/97 and 12/01/97.</p>	<p>"an elastic band, strap or T-shaped brace connected to the grip"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See '091 Patent at 1:54-62; 2:55-63; 3:52-56; 4:31-39; 4:66-5:2</i> <i>See also</i> Figs. 2A, 2B and 3.</p> <p><i>See also</i> Claims 1, 5-7, 12, and 13</p> <p><i>See also</i> 07/17/1995 Application; Amendment of 12/01/97 and accompanying remarks; Examiner Interview Summaries of 09/03/97 and 12/01/97; and 11/13/1997 Draft Amendment.</p>

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Definition of "retainer" and "connected".</p> <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary, Unabridged.</i> Merriam-Webster, 2002. • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		

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Case No.: C 07-03677 JSW

Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>to retain the member</p> <p><i>Proposed for Construction by H&B Only</i></p> <p>Appears in Claim 1 of the '091 Patent</p>	<p>No construction required.</p> <p>To the extent that a construction is required: "maintain the position of the member in the user's hand".</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See e.g.</i>, '091 Patent – Abstract; 1:54-56; 1:59-62; 2:4-5; Figures 2A-B; 2:55-63; 2:6-7; Figure 3; 3:52-56; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4: 64-5:2.</p> <p><i>See also</i> Claims 1, 4-7 and 13.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Action of 1/13/98; and Examiner Interview Summaries of 09/03/97 and 12/01/97.</p>	<p>"to hold or secure the grip in the proper position"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g.</i>, '091 Patent at 2:55-63.</p> <p><i>See also</i> Fig. 3.</p> <p><i>See also</i> Claims 1, 4-7, and 13.</p> <p><i>See also</i> 07/17/1995 Application.</p>

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Definition of "retain."</p> <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary, Unabridged.</i> Merriam-Webster, 2002. • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>adjacent to the base of the user's fingers</p> <p><i>Proposed for Construction by H&B Only</i></p> <p>Appears in Claims 1, 5, 12 and 13 of the '091 Patent</p>	<p>No construction required.</p> <p>To the extent that a construction is required: "near the proximal phalanx A2 pulley region of the user's fingers".</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See e.g.</i>, '091 Patent – Abstract; 1:43-56; 2:1-3; Figure 1; 2:29-42; 2:4-5; Figures 2A-B; 2:43-63; 2:6-7; Figure 3; 3:14-18; 3:19-30; 3:36-51; 3:52-56; 4:8-18; 2:10-11; Figures 5A-B; 4:31-44; 2:13-2:17; Figures 6-7; 4:45-63.</p> <p><i>See also</i> Claims 1, 5, 7 12 and 13.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Actions of 07/31/97 and 1/13/98; and Examiner Interview Summary of 08/21/97.</p>	<p>"below the base of the user's fingers"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See</i> '091 Patent at 1:47-50; 2:43-50; and 4:40-48.</p> <p><i>See also</i> Figs. 1, 3, 5A, 5B and 6.</p> <p><i>See also</i> Claims 1, 5, 7, 12 and 13</p> <p><i>See also</i> 07/17/1995 Application; 08/14/1996 Office Action (#8) (describing elongated member (24) of Webster '690 patent configured to fit adjacent a user's superficial transverse metacarpal ligament and finger).</p>

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Patent L.R. 4-3(b)

EXHIBIT A: JOINT CLAIM CONSTRUCTION CHART

CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Dolye MD. Anatomy of the finger flexor tendon sheath and pulley system. J. HAND SURG. 1988; 13A:473-484.</p> <p>FRANK H. NETTER MD., ATLAS OF THE HUMAN ANATOMY (Saunders Elsevier 4th ed. 2006) (1989).</p> <p>KEITH L. MOORE, PhD, FIAC, FRSM & ANNE M.R. AGUR, BSc(OT), MSc PhD, ESSENTIAL CLINICAL ANATOMY (Lippincott Williams & Wilkins 3d ed. 2007) (1995).</p> <p>Definition by "adjacent." <ul style="list-style-type: none"> <i>Webster's Third New International Dictionary, Unabridged.</i> </p>		

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CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p>Merriam-Webster, 2002.</p> <ul style="list-style-type: none"> • <i>The American Heritage Dictionary of the English Language</i>. 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language</i>. 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English</i>. 1998. 		

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CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>attachment</p> <p>Appears in Claims 5 and 13 of the '091 Patent</p>	<p>"glove component which secures the member to the glove."</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See e.g.</i>, '091 Patent – 1:59-62; 2:55-63; 3:52-56; 2:10-11; Figures 5A-B; 4:31-44; 4: 64-5:2</p> <p><i>See also</i> Claims 5, 7 and 13.</p> <p><i>See also</i> 7/17/1995 Application; Amendments of 06/12/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Action of 1/13/98; and Examiner Interview Summaries of 09/03/97 and 12/01/97.</p> <p><u>EXTRINSIC EVIDENCE:</u> Definition of "attachment." <ul style="list-style-type: none"> <i>Webster's Third New International Dictionary, Unabridged.</i> </p>	<p>"a strap or long thin pocket"</p>	<p><u>INTRINSIC EVIDENCE:</u> <i>See, e.g.</i>, '091 Patent at 4:31-39; Fig. 5A.</p> <p><i>See also</i> Claim 5, 7, and 13.</p> <p><i>See also</i> 07/17/1995 Application; Amendment of 12/01/97 and accompanying remarks.</p>

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CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p>Merriam-Webster, 2002.</p> <ul style="list-style-type: none"> • <i>The American Heritage Dictionary of the English Language</i>. 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language</i>. 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English</i>. 1998. 		

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CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
<p>includes a plurality of sub-members</p> <p><i>Proposed for Construction by H&B Only</i></p> <p>Appears in Claim 12 the '091 Patent</p>	<p>No construction required.</p> <p>To the extent that a construction is required: "includes two or more sub-members".</p>	<p><u>INTRINSIC EVIDENCE:</u></p> <p><i>See e.g., '091 Patent – Abstract; 1:43-56; 1:59-62; 2:64-3:13; 2:8-9; Figure 4; 4:19-30; 2:10-11; Figures 5A-B; 4:31-44.</i></p> <p><i>See also Claims 12 and 13.</i></p> <p><i>See also 7/17/1995 Application; Amendments of 06/12/96, 09/26/96, 04/18/97, 08/19/97, 12/01/97, and accompanying remarks; Office Actions of 07/31/97 and 1/13/98; and Examiner Interview Summaries of 07/31/97, 08/21/97, 09/03/97 and 12/01/97.</i></p>	<p>"includes two or more small grips incorporated into the long and narrow grip"</p>	<p><u>INTRINSIC EVIDENCE:</u></p> <p><i>See, e.g., '091 Patent at 4:39-65; id. at Fig. 5B.</i></p> <p><i>See also Claims 1, 12, 13, 14 and 15.</i></p>

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CLAIM TERMS	McHUGH'S CONSTRUCTION	McHUGH'S EVIDENCE	H&B'S CONSTRUCTION	H&B'S EVIDENCE
		<p><u>EXTRINSIC EVIDENCE:</u> Definitions of "include", "plurality" and "sub".</p> <ul style="list-style-type: none"> • <i>Webster's Third New International Dictionary, Unabridged.</i> Merriam-Webster, 2002. • <i>The American Heritage Dictionary of the English Language.</i> 4th ed. 2000. • <i>Webster's Encyclopedic Unabridged Dictionary of the English Language.</i> 1996. • Pearsall, Judy and Patrick Hanks. <i>The New Oxford Dictionary of English.</i> 1998. 		